

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES COLE,)	
)	Civil Action No. 04 - 99J
Plaintiff,)	
)	District Judge Kim R Gibson
v.)	
)	
RAYMOND SOBINA, Superintendent of)	
SCI Somerset; WILLIAM MAILMAN,)	
Unit Manager of General Population;)	
BRIAN WESTLEY, General Population)	
Unit Counselor; DAVID HUNTER, Unit)	
Manager of the Special Needs Unit at SCI)	
Somerset; and RITA WALKER, Unit)	
Counselor of Special Needs Unit at SCI)	
Somerset,)	
)	
Defendants.)	

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* (doc. no. 1) on May 6, 2004. The case was referred to United States Magistrate Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (doc. no. 33), filed on November 14, 2007, recommended that the Partial Motion to Dismiss the Amended Complaint (doc. no. 23) be granted with respect to Plaintiff's ADA and RA claims against Defendants in their individual capacities and as to Plaintiff's claims against Defendant Sobina and that it be denied as to Defendants' assertion that Plaintiff's claims against Defendants Hunter and Walker are barred by the two-year limitations period. It further recommended that the Motion to Dismiss filed by Defendants Mailman and Westley (doc. no. 26) be denied. The Report and Recommendation was served on the Plaintiff at the address presently listed on the docket sheet.

The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 19th day of December, 2007;

IT IS HEREBY ORDERED that the Partial Motion to Dismiss the Amended Complaint (doc. no. 23) is **GRANTED** with respect to Plaintiff's ADA and RA claims against Defendants in their individual capacities, as to Plaintiff's claims against Defendant Sobina and **DENIED** as to Defendants' assertion that Plaintiff's claims against Defendants Hunter and Walker are barred by the two-year limitations period.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendants Mailman and Westley (doc. no. 26) be **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 33) of Magistrate Judge Lenihan, dated November 14, 2007, is adopted as the Opinion of the Court.

By the Court:



Kim R. Gibson
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

James Cole
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